

78



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

VO, TIM T

ART UNIT PAPER NUMBER

2112

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,944

Applicant(s)

BOGIN ET AL.

Examiner

Tim T. Vo

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Part III DETAILED ACTION

Notice to Applicant(s)

This application has been examined. Claims 1-9 are pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Claims 1-3 of patent 6,145,032 contains every element of claims 1-9 of the instant application and as such anticipates claims 1-9 of the instant application. Therefore, claims 1-9 of the instant application is not patentably distinct from the earlier patent claims and as such is unpatentable for obvious-type double patenting.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. *In re Longi*, 759 F.2d. at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); *In re Berg*, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)". *ELI LILLY AND COMPANY v BARR LABORATORIES, INC.*, United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: MAY 30, 2001).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

Art Unit: 2112

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1, 2, 4, 5, 7 and 8 are rejected under 35 U.S.C. § 102(e) as being anticipated by Bannister et al. 6,145,032 referred hereinafter Bannister.

As for claim 1, Bannister teaches a method, comprising: receiving a broadcast transaction from a requestor in a computer system (see figure 1, nodes 10b,c,d are sending packets to the node 10a); determining if a command queue is full (see figures 2-3, output queue 80, full signal 86 and column 4 line 37); dispatching the broadcast transaction to the command queue if the command queue is not full (see figures 2-3, output queue empty 92 and 4 lines 50-67, wherein packets receives from nodes 10b-d, will output to the receive node 10a if the buffer queue is not full in response to signal 92); and issuing a delay transaction response to the requestor if the command queue is full (see column 1 lines 32-45, wherein when the buffer is full, the bridge issues a

Art Unit: 2112

suspend transmission command to other processors nodes and therefore delay the transmission process).

As for claim 2, Bannister teaches, wherein the broadcast transaction is an End-of-Interrupt transaction (see column 3 lines 36-50).

As for claim 4, Bannister teaches an apparatus, comprising: a command queue coupled to a detector to detect if the command queue is full (see figure 3, output queue 80, output queue full 86, output queue empty 92); a command dispatcher coupled to the command queue and the detector (see figure 3, decision point logic 82, mux logic 78, output queue empty 92, output queue full 86), the command dispatcher including: logic to dispatch a broadcast command from a requestor to the command queue if the command queue is not full (see figure 3, output queue empty 92 and column 4 lines 50-67); and logic to respond to the requestor with a delay transaction response if the command queue is full (see column 1 lines 32-45, wherein when the buffer is full, the bridge issues a suspend transmission command to other processors nodes and therefore delay the transmission process).

As for claim 5, Bannister teaches wherein the broadcast command is an End-of-Interrupt transaction (see column 3 lines 36-50).

As for claim 7, Bannister teaches a machine-readable medium having stored thereon instructions, which when executed by at least one machine cause said at least one machine to perform: receiving a broadcast transaction from a requestor in a computer system; determining if a command queue is full; dispatching the broadcast transaction to the command queue if the command queue is not full; and issuing a delay transaction response to the requestor if the command queue is full.

As for claim 8, Bannister teaches, wherein the broadcast transaction is an End-of-

Art Unit: 2112

Interrupt transaction (see column 3 lines 36-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bannister 6,145,032 in view of Carson et al. 5,887,194.

As for claims 3, 6 and 9, Bannister does not expressly teach retry. However, retry is well known in the art as Carson teaches in column 11 lines 34-38. Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Carson into the teachings of Bannister because Carson providing retry capability to accomplishing an unfinished transaction and thus providing accurate latency prediction to avoiding multiple retries.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tim T. Vo whose telephone number is 571-272-3642. The examiner can normally be reached on 7:30-5:00.

Art Unit: 2112

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on 571-272-3672. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



10/15/2005

Tim T. Vo
Primary Examiner
Art Unit 2112